Filed 6/24/19 In re Princess R. CA2/2

NOT TO BE PUBLISHED IN THE OFFICIAL REPORTS

IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA
SECOND APPELLATE DISTRICT
DIVISION TWO

In re PRINCESS R., et al., Persons Coming Under the Juvenile Court Law.	B292793
LOS ANGELES COUNTY DEPARTMENT OF CHILDREN AND FAMILY SERVICES, Plaintiff and Respondent. v. ANTHONY R., Defendant and Appellant.	(Los Angeles County Super. Ct. No. 18CCJP04043A-B)

APPEAL from a judgment of the Superior Court of Los Angeles County. Julie Fox Blackshaw, Judge. Affirmed and remanded with directions.

Joseph T. Tavano, under appointment by the Court of Appeal, for Defendant and Appellant.

Mary C. Wickham, County Counsel, Kristine P. Miles, Acting Assistant County Counsel, and Stephanie Jo Reagan, Deputy County Counsel for Plaintiff and Respondent.

Anthony R. (father) appeals from a juvenile court judgment asserting jurisdiction over his two daughters, Princess (born June 2002) and Paris (born Nov. 2005). Father raises two issues on appeal: first, that the juvenile court erred in failing to comply with the Uniform Child Custody Jurisdiction and Enforcement Act (UCCJEA); and second, that the juvenile court erred in failing to comply with the inquiry and notice requirements of the Indian Child Welfare Act (ICWA). As to the first contention, we find no reversible error. We agree with the Los Angeles Department of Children and Family Services (DCFS) concession that the second contention has merit. We thus remand the matter to the juvenile court to allow compliance with the ICWA inquiry and notice requirements, but otherwise affirm the juvenile court's jurisdictional findings and dispositional orders.

BACKGROUND

In June 2018, DCFS received a referral alleging that father was physically abusing Princess (then 15 years old) and Paris (then 12 years old). The reporting party informed DCFS that the children's mother had passed away in October 2017 in Oregon, and that father had collected the children after their mother's passing. The reporting party said mother had kept the children away from father because he was violent. Princess had allegedly been backhanded and belted by father, and Paris had an injury to the bridge of her nose that was caused by father.

Father reported that he lived alone and the children lived with paternal grandmother (PGM), but that the children would

visit and stay with him. Father had another child, Anthony Jr. (born 2007), who lived with his mother Magdalena G. at a separate address.[1] Father denied the allegations. Father knew the children had previously lived in Oregon, but was unsure how they got to California. He was unaware of any family court proceedings or orders in Oregon.

Amanda R., the children's adult sibling who resides in Oregon, told DCFS that the girls went to live with father on March 16, 2018. She also advised DCFS of another adult sibling, Jessica, who also resides in Oregon and who was supposed to care for the children and help their mother. Amanda reported that Jessica abused the girls and failed to provide care for their mother. Amanda did not mention any custody proceeding or custody order, and claimed not to want to interfere with father's rights as a parent.

DCFS interviewed the children who were attending high school and middle school. When asked if she knew why the social worker had come to see her, Princess responded that it was because her father was "very abusive." Paris responded to the same question: "because of what my dad had done, hit us and stuff." Both girls disclosed that father had hit them with his hand and with a belt. They also disclosed that Magdalena had initiated a fight with them and threatened them. Both girls expressed fear of father and did not feel safe with him.

Princess claimed that she tried to kill herself when she found out she was moving to California. She wanted to live with her sister, Amanda, in Oregon, but an Oregon judge said she had

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[1] Anthony Jr. is not a subject of this appeal. However, Anthony Jr. was taken into protective custody on a separate referral and is the subject of a separate dependency proceeding.

to go live with father. Princess said she and her sister lived with PGM for a few weeks but had been with father since early June. Paris also expressed a desire to return to Oregon and live with Amanda. Both girls disclosed a history of suicidal ideation.

PGM stated that the children were in an abusive situation in Oregon after their mother died. Jessica, the abusive half-sister with whom the girls were living, was not feeding them and requiring them to stay home and babysit. The girls called PGM crying, so she went to get them. PGM said an Oregon court gave custody to father.[2]

On June 23, 2018, a DCFS social worker contacted Oregon Child Protection in an effort to locate history of the children. Calls to Douglas County and Lincoln County, Oregon child protective services yielded only automated messages.

Petition and detention

On June 26, 2018, DCFS filed a petition on behalf of Princess and Paris pursuant to Welfare & Institutions Code section 300, subdivisions (a), (b), (c), and (j) (section 300). The petition alleged: (1) father physically abused then 15-year-old Princess by slapping her face with his hand, striking her leg with a belt, and pulling her hair; (2) father physically abused then 12-year-old Paris by slapping her head, striking her body with a belt,

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[2] PGM's testimony that she and father went to court in Oregon conflicts with father's testimony that he was unaware of how the girls got to California, and was unaware of any court proceedings or orders in Oregon. Father denied the existence of any family court orders. Specifically, father testified, "I don't know how my mom got a hold of the kids. . . . I was notified that the kids were here because of either the kids and grandma or somebody called me."

and throwing a cup of water in her face; (3) father's companion Magdalena physically abused Princess by biting her hand, scratching her arm, brandishing a crowbar at Princess and threatening to kill Princess, Paris, father, and PGM; (4) father emotionally abused Princess by striking her therapy dog with a belt in her presence, refusing to allow Princess contact with her dog, and failing to obtain necessary mental health treatment for Princess; and (5) father and Magdalena had a history of engaging in violent altercations in the presence of Anthony Jr., who was a current dependent of the juvenile court.

At the June 27, 2018 detention hearing, the juvenile court found that father was the presumed father of the girls.[3] It further found that a prima facie showing had established that the children were persons described in Welfare & Institutions Code section 300. The children were then detained. The court ordered a "cooling off" period for father and the children, and ordered that the children could have unlimited, unmonitored contact with Amanda.

ICWA information

Father submitted a parental notification of Indian Status form indicating that his grandparents descended from the "Tiano" tribe. Based on father's statement the juvenile court ordered DCFS to send notices to the appropriate tribes and update the court with any responses.

The court also inquired of Princess as to possible Native American ancestry on their mother's side. Princess thought that her maternal grandmother possibly had Native American

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[3] Father indicated in his statement regarding parentage, that Princess lived with him from 2002 to 2007, prior to living in Oregon.

heritage, but that the maternal grandmother had passed away the same year as her mother. Princess said, "my sister said it was Native American, but we don't know, like, location, so . . . ." When asked whether anyone lived on a reservation, Princess responded, "No, but . . . I don't know. Like the only thing, like, my mom spoke about was Kayan, but I don't think it was Kayan because that was like Asian, but I don't know." The juvenile court ordered DCFS to seek further information from Amanda.

ICWA finding

DCFS filed a report for the July 12, 2018 hearing indicating that DCFS had spoken with PGM and paternal grandfather. Paternal grandfather stated that his family was believed to be descendants of the "Taino" tribe. However, DCFS informed the court that this is not a federally recognized tribe.

The juvenile court found that "as to the father there is no reason to know this is a case involving the Indian Child Welfare Act and no further investigation needs to be made as to ICWA."

Neither the court, nor the parties, addressed Princess's comments regarding the possible Native American heritage on the girls' mother's side, or the juvenile court's previous order that DCFS interview Amanda for more information.

Jurisdictional report and hearing

The jurisdictional report, filed July 25, 2018, contained the same information regarding the ICWA investigation as had been previously reported. No further information regarding any ICWA investigation as to the mother's family was included.

In the "Family Law Status" of the report the following was found: "The Court is respectfully informed that there is no known Family Law Order for the children, Princess and Paris [R.]."

DCFS also reported that Amanda had expressed an interest in having the children placed with her, and asked that the juvenile court order the initiation of an Interstate Compact on the Placement of Children (ICPC) for placement in Amanda's home in Oregon.

DCFS further reported that both girls were refusing to visit father.

At the jurisdictional hearing on August 28, 2018, the juvenile court struck the allegations of domestic violence, but found the remaining allegations to be true. The court removed the children from the custody of father and ordered no visitation. The court further ordered that DCFS initiate an ICPC for Amanda in Oregon, and granted DCFS discretion to place the children with her.

On September 14, 2018, father filed his notice of appeal.

DISCUSSION

I. UCCJEA

A. Applicable law and standard of review

The UCCJEA (Family Code, § 3400 et seq.)[4] is a uniform act drafted by the National Conference of Commissioners on Uniform State Laws that has been adopted in all 50 states. It was adopted in California effective January 1, 2000. (*In re Cristian I.* (2014) 224 Cal.App.4th 1088, 1096 (*Christian I.*).) The UCCJEA provides "the exclusive method for determining the proper forum to decide custody issues involving a child who is subject to a sister-state custody order. [Citations.]" (*Ibid.*; § 3421, subds. (a), (b).)

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[4] Further statutory references in this section are to the Family Code.

There are several pertinent provisions within the UCCJEA. First, appellant father points to the definition of "home state," found in section 3402, subdivision (g), which provides, in pertinent part: "'Home state' means the state in which a child lived with a parent or a person acting as a parent for at least six consecutive months immediately before the commencement of a child custody proceeding."

Section 3421, subdivision (a), sets forth the circumstances under which a California court is generally permitted to make an initial child custody determination. It provides, in pertinent part:

> "(a) Except as otherwise provided in Section 3424, a court of this state has jurisdiction to make an initial child custody determination only if any of the following are true:
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> "(1) This state is the home state of the child on the date of the commencement of the proceeding, or was the home state of the child within six months before the commencement of the proceeding and the child is absent from this state but a parent or person acting as a parent continues to live in this state.
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> "(2) A court of another state does not have jurisdiction under paragraph (1), or a court of the home state of the child has declined to exercise jurisdiction on the grounds that this state is the more appropriate forum under Section 3427 or 3428, and both of the following are true:
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> "(A) The child and the child's parents, or the child and at least one parent or a person acting as a parent, have a significant connection with this state other than mere physical presence.

> "(B) Substantial evidence is available in this state concerning the child's care, protection, training, and personal relationships.
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> "[¶] . . . [¶]
>
> "(4) No court of any other state would have jurisdiction under the criteria specified in paragraph (1), (2), or (3)."

Section 3424 provides an exception for emergency situations, such as mistreatment or abuse of a child. Pursuant to section 3424, subdivision (a), a court of this state has temporary emergency jurisdiction "if the child is present in this state and the child has been abandoned or it is necessary in an emergency to protect the child because the child . . . is subjected to, or threatened with, mistreatment or abuse." Although temporary jurisdiction is intended to be short term, "'the juvenile court may continue to exercise its authority as long as the reasons underlying the dependency exist.' [Citations.]" (*Cristian I., supra*, 224 Cal.App.4th at p. 1097.) However, if a court of this state has been asked to make a custody determination pursuant to the emergency provision, "upon being informed that a child custody proceeding has been commenced in, or a child custody determination has been made by, a court of a state having jurisdiction under Sections 3421 to 3423, inclusive," it must "immediately communicate with the other court." (§ 3424, subd. (d).)

Section 3423 permits a court of this state to modify a child custody determination made by the court of another state if it has jurisdiction to make an initial determination of custody under section 3421, subdivision (a)(1) or (a)(2), and it "determines that

the child, the child's parents, and any person acting as a parent do not presently reside in the other state." (§ 3423, subd. (b).)

A juvenile court's determination as to its authority to exercise jurisdiction under the UCCJEA may be raised on appeal for the first time. (*In re Gloria A.* (2013) 213 Cal.App.4th 476, 481.) We review the facts establishing jurisdiction for substantial evidence. (*In re Aiden L.* (2017) 16 Cal.App.5th 508, 520 (*Aiden L.*).) The interpretation of the UCCJEA is a question of law we review de novo. (*Schneer v. Llaurado* (2015) 242 Cal.App.4th 1276, 1287.)

B. The juvenile court had jurisdiction under the UCCJEA

Subject matter jurisdiction either exists or does not exist at the time an action is commenced. It cannot be conferred by stipulation, consent, waiver or estoppel. (*In re Jaheim B.* (2008) 169 Cal.App.4th 1343, 1348.) We find the juvenile court properly asserted jurisdiction over Princess and Paris.

1. Jurisdiction pursuant to section 3421, subd. (a)(2)

Section 3421, subdivision (a), gives a California court jurisdiction to make an initial custody determination. Analysis of this section requires reference to section 3402, subdivision (g), which defines the term "home state," as a state where a child lived with a parent, or a person acting as a parent, for at least six consecutive months immediately before commencement of a child custody proceeding. (§ 3402, subd. (g).) Princess and Paris resided in Oregon with their mother until she died in October 2017. Thus, after October 2017, Princess and Paris were not living in Oregon "with a parent or a person acting as a parent." (§ 3402, subd. (g).) Princess and Paris came to California in

February or March of 2018, and this proceeding commenced in June 2018. Because Princess and Paris were not residing in Oregon with a parent or a person acting as a parent for six consecutive months immediately preceding the commencement of this action, Oregon is not their home state pursuant to section 3421, subdivision (a)(1).[5]

Further, because the girls had been living in California for only three or four months when the action commenced, California is also not their section 3421, subdivision (a)(1) home state. Thus, Princess and Paris had no home state under the UCCJEA. (See *Jaheim B., supra*, 169 Cal.App.4th at p. 1350 ["Jaheim had no home state under the UCCJEA because he did not live with a parent or a person acting as a parent in California or Florida for at least six consecutive months immediately before the dependency petition was filed"].)

Because Princess and Paris had no home state, the California juvenile court had jurisdiction pursuant to section

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[5] The girls apparently temporarily resided with adult sibling Jessica after the death of their mother. Father makes no argument that Jessica qualified as a person "acting as a parent," as that term is defined in section 3402, subdivision (m), therefore we presume she does not qualify for this role. We note that section 3402, subdivision (m) requires that a person acting as a parent have physical custody for a period of six consecutive months or an award of legal custody. Thus, Oregon does not qualify as the girls' "home state" under section 3421, subdivision (a)(1), which grants a state jurisdiction if the state "was the home state of the child within six months before the commencement of the proceeding and the child is absent from this state but a parent or person acting as a parent continues to live in this state."

3421, subdivision (a)(2), which permits a California court to make an initial child custody determination if no other state qualifies as the child's home state, and "(A) The child and . . . at least one parent . . . have a significant connection with this state other than mere physical presence," and "(B) Substantial evidence is available in this state concerning the child's care, protection, training, and personal relationships." Both of these criteria are met.

a. Significant connection

Princess and Paris and father had significant connections with the state beyond mere presence. The evidence suggests that Princess and Paris lived in California from birth until 2007, and that both were currently enrolled in school in California. Furthermore, their father and PGM, who had cared for them in the recent past, lived in California.

b. Substantial evidence regarding the children

Substantial evidence is available in this state concerning the children's care, protection, training, and personal relationships. Both girls are old enough to provide testimony, and both are currently residing in California. In addition, both father and PGM are present in this state and available to provide such evidence.

Because the requirements of section 3421, subdivision (a)(2) are met, the juvenile court had jurisdiction to make an initial child custody determination pursuant to this section.[6]

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[6] Even if the requirements of section 3421, subdivision (a)(2) were not met, the juvenile court still had jurisdiction pursuant to section 3421, subdivision (a)(4), which permits a California court to make an initial child custody determination if "[n]o court of

2. Temporary emergency jurisdiction pursuant to section 3424

Even if it did not have jurisdiction pursuant to section 3421, subdivision (a)(2), the juvenile court had temporary emergency jurisdiction under section 3424. Temporary emergency jurisdiction is available to a California court if the child is present in this state and it is necessary to protect the child from mistreatment or abuse. (§ 3424, subd. (a).) This provision is to be interpreted expansively. (§ 3424, subd. (e).) Father does not argue that the circumstances present here do not qualify for emergency jurisdiction.

Father correctly points out that when a juvenile court exercises emergency jurisdiction, "upon being informed that a child custody proceeding has been commenced in, or a child custody determination has been made by, a court having jurisdiction under Sections 3421 to 3423, inclusive, [it] shall immediately communicate with the other court." (§ 3424, subd. (d).) While there was some suggestion that a child custody proceeding had commenced in Oregon, DCFS did not obtain any information about any such proceeding. DCFS specified that it was unable to locate any child protective or family law orders from Oregon. Furthermore, father, who would necessarily be a party to any such action, was unaware of any child custody proceedings in Oregon. The information regarding alleged Oregon court proceedings came from Princess, who was told that an Oregon judge said she had to live with her father, and from PGM. In the absence of actual judicial records from Oregon, or

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any other state would have jurisdiction under the criteria specified in paragraph (1), (2), or (3)."

official notice to father, the juvenile court was entitled to discredit this vague reference to a judicial proceeding in Oregon. Father has not made an offer of proof or affirmative assertion on appeal regarding the existence of a relevant Oregon proceeding. We therefore find, to the extent that the juvenile court impliedly discredited the verbal, hearsay claim of a proceeding in Oregon, the evidence supports an implied factual finding that no such proceeding took place. The court's temporary emergency jurisdiction can ripen into continuing jurisdiction where, as here, no other state with grounds for continuing jurisdiction exists. (*In re Gino C.* (2014) 224 Cal.App.4th 959, 967 (*Gino C.*).)

3. Authority to modify pursuant to section 3423

Finally, we note that even if an Oregon custody order exists (no such order is found in the record) -- the juvenile court was entitled to modify such an order under section 3423. Under section 3423, a court of this state may modify a child custody order when it has jurisdiction under section 3421, subdivision (a), and it determines that the child, the child's parents, and any person acting as a parent does not reside in the other state. (§ 3423, subd. (b).) As set forth above, the juvenile court had jurisdiction under section 3421, subdivision (a)(2). The juvenile court's implicit determination that the children and their remaining parent do not presently live in Oregon was amply supported by the evidence.

In sum, the juvenile court had subject matter jurisdiction, and the orders need not be vacated for lack of jurisdiction.

C. Any error in failing to address the UCCJEA was harmless

"Failure to comply with the procedural requirements of the UCCJEA is subject to harmless error analysis. [Citations.]"

(*Cristian I., supra*, 224 Cal.App.4th at p. 1098.) Under a harmless error analysis, no judgment can be reversed for ordinary error unless the error complained of "has resulted in a miscarriage of justice." (Cal. Const., art. VI, § 13.) Reversal is justified "only when the court, 'after an examination of the entire cause, including the evidence,' is of the 'opinion' that it is reasonably probable that a result more favorable to the appealing party would have been reached in the absence of the error." (*People v. Watson* (1956) 46 Cal.2d 818, 836; see also *Cristian I.*, at pp. 1098-1099.)

Father contends that the juvenile court erred in failing to address the UCCJEA and failing to comply with its procedural requirements. We find any such error harmless in this case. Father has not shown that he was prejudiced either by the juvenile court's failure to address UCCJEA, or their inability to contact Oregon authorities.

First, we have determined that California had jurisdiction pursuant to section 3421, subdivision (a)(2). Because it had such jurisdiction, the court's failure to directly address the UCCJEA issue was harmless. Oregon did not qualify as the girls' home state, thus the juvenile court did not need to contact the Oregon court. However, there is evidence that DCFS nonetheless attempted to get information about previous proceedings from Oregon, but was unsuccessful. Father has not shown that, had the juvenile court specifically addressed the UCCJEA, the juvenile court would have come to the conclusion that it did not have jurisdiction, that it was required to contact Oregon, or that it was required to cede jurisdiction to Oregon.

Even if the juvenile court's jurisdiction were merely emergency jurisdiction, the juvenile court was entitled to

disregard the vague, verbal reference to a child custody proceeding in Oregon. In the absence of more concrete evidence of such a proceeding, the juvenile court was not required to "communicate with the other court" as set forth in section 3424, subdivision (d). (See, e.g., *In re R.L.* (2016) 4 Cal.App.5th 125, 145 [harmless error for the juvenile court not to contact a Mexican court, where the juvenile court properly asserted temporary emergency jurisdiction, and no child custody action was filed in Mexico].) We note that in the absence of a court order or other official court document, the juvenile court would not know what court to contact. Father had ample opportunity to provide such evidence in this proceeding, and has failed to do so.

Father emphasizes that the girls' sister, Amanda, had expressed interest in taking the children, and that they both expressed a desire to live with Amanda. However, father does not explain how this result cannot be achieved here. The record shows that DCFS was ordered to initiate an ICPC for Amanda, and there is no evidence that DCFS's efforts to do so were hindered in any way.

Father cites several cases in which a juvenile court's failure to comply with the requirements of the UCCJEA have been considered reversible error. These cases are factually distinguishable. In *Gino C.*, Mexico was the children's home state because the children had lived there for six consecutive months immediately preceding the filing of the case. (*Gino C., supra*, 224 Cal.App.4th at pp. 964-965.) The juvenile court declined to contact Mexico, despite its knowledge that Mexico was the children's home state. Thus, the juvenile court did not have jurisdiction under section 3421, subdivision (a). While it had temporary emergency jurisdiction, the juvenile court's orders

could not become final unless Mexico affirmatively declined to exercise its home state jurisdiction. (*Gino C.*, at p. 966.) The judgment was therefore reversed, and remanded for further proceedings. (*Id.* at p. 968.) Here, unlike in *Gino C.*, Oregon is not the children's home state because the children did not live there for six consecutive months immediately preceding the filing of the case.

Similarly, in *In re A.M.* (2014) 224 Cal.App.4th 593, the father and children lived in Tijuana for at least six months before child protective services in California filed a petition on the children's behalf. The children were detained when their mother was arrested as she attempted to smuggle drugs across the border with the children in the car. (*Id.* at p. 596.) While the juvenile court properly assumed temporary emergency jurisdiction, the matter was remanded to provide notice to Mexican authorities and inquire whether Mexico wished to commence proceedings to protect the children. (*Id.* at pp. 599-600.) Again, the matter is distinguishable because Mexico was unquestionably the children's home state.

Aiden L. involved a matter that was remanded for a determination of whether the juvenile court properly exercised its jurisdiction. The parents married and had children in Arizona, but travelled with their youngest child to Los Angeles, leaving the two older children in Arizona with the maternal grandparents. After termination of parental rights in Los Angeles County, both parents appealed, arguing that the Los Angeles juvenile court lacked subject matter jurisdiction under the UCCJEA. (*Aiden L., supra*, 16 Cal.App.5th at p. 516.) The Court of Appeal agreed, finding that the court "should have considered whether the family's stay in California during this

period was a 'temporary absence' from Arizona within the meaning of section 3402, subdivision (g)." (*Id.* at p. 521.) A ruling on this issue would entail a complex factual inquiry as to the parents' reasons for leaving Arizona and their plans once they arrived in California, including whether or not they discussed returning to Arizona. Further, the parents' transient lifestyle while living in California should also be considered. (*Ibid.*) Finally, because there were outstanding arrest warrants for both parents in Arizona, the juvenile court was ordered to consider whether the parties, in avoiding Arizona jurisdiction, did so because of unjustifiable conduct. (*Ibid.*) In short, the question of Aiden's home state was a complex, unanswered factual question, and the matter was remanded for the juvenile court to make the determination of subject matter jurisdiction in the first instance. (*Id.* at p. 523.)

Here, no such complex factual questions exist. The children came to California to live with their father after their mother died. The father had no intention of moving to Oregon, and the children had no parent living in Oregon. Thus, a complicated factual analysis is unnecessary. Oregon was not the children's home state, and the California court properly exercised subject matter jurisdiction.

II. ICWA

ICWA accords Indian tribes the right to intervene at any point in a state court dependency proceeding involving an Indian child. (*In re Karla C.* (2003) 113 Cal.App.4th 166, 173-174.) To ensure the tribe will be afforded the opportunity to intervene and assert its rights in the action, the statute requires that notice be

given to the appropriate tribe in any dependency proceeding involving an Indian child.[7]

Welfare and Institution Code section 224.3 governs ICWA notice in California dependency proceedings.[8] Subdivision (a) of that statute provides in relevant part: "If the court, a social worker, or probation officer knows or has reason to know . . . that an Indian child is involved, notice . . . shall be provided for hearings . . . . Notice shall comply with all of the following requirements: [¶] (1) Notice shall be sent by registered or certified mail with return receipt requested. Additional notice by first-class mail is recommended, but not required. [¶] (2) Notice

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[7] The ICWA notice provision states: "In any involuntary proceeding in a State court, where the court knows or has reason to know that an Indian child is involved, the party seeking the foster care placement of, or termination of parental rights to, an Indian child shall notify the parent or Indian custodian and the Indian child's tribe, by registered mail with return receipt requested, of the pending proceedings and of their right of intervention. If the identity or location of the parent or Indian custodian and the tribe cannot be determined, such notice shall be given to the Secretary in like manner, who shall have fifteen days after receipt to provide the requisite notice to the parent or Indian custodian and the tribe. No foster care placement or termination of parental rights proceeding shall be held until at least ten days after receipt of notice by the parent or Indian custodian and the tribe or the Secretary: *Provided*, That the parent or Indian custodian or the tribe shall, upon request, be granted up to twenty additional days to prepare for such proceeding." (25 U.S.C. § 1912(a).)

[8] All further statutory references in this section are to the Welfare and Institutions Code.

to the tribe shall be to the tribal chairperson, unless the tribe has designated another agent for service. [¶] (3) Notice of all Indian child custody hearings shall be sent by the party seeking placement of the child to all of the following: [¶] (A) All tribes of which the child may be a member or citizen, or eligible for membership or citizenship . . . ."

California law also imposes an "affirmative and continuing duty" on the court and the Department "to inquire whether a child for whom a petition . . . may be or has been filed, is or may be an Indian child." (§ 224.2, subd. (a).) Subdivision (b) of section 224.2 sets forth the steps to be taken when making inquiry regarding a child's Indian status: "Inquiry includes, but is not limited to, asking the child, parents, legal guardian, Indian custodian, extended family members, others who have an interest in the child, and the party reporting child abuse or neglect, whether the child is, or may be, an Indian child . . . ."

If there is reason to believe that an Indian child is involved in a proceeding, "the court, social worker, or probation officer shall make further inquiry regarding the possible Indian status of the child, and shall make that inquiry as soon as practible." (§ 224.2, subd. (e).)[9]

Father contends, and DCFS concedes, that the inquiry and notice requirements of ICWA were not met in this case and that the juvenile court erred by holding the adjudication and dispositional hearings without ensuring compliance with those requirements. Failure to comply with the inquiry and notice requirements of ICWA does not require reversal of the juvenile

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[9] The statutory inquiry requirements are implemented by rule 5.481(a) of the California Rules of Court.

court's jurisdictional or dispositional orders. (*In re Brooke C.* (2005) 127 Cal.App.4th 377, 384-385.) As we noted in *Brooke C.*, "the only order which would be subject to reversal for failure to give notice would be an order terminating parental rights" (*id.* at p. 385), and such an order is not at issue in these proceedings.

DISPOSITION

The judgment is affirmed, however the matter is remanded to the juvenile court for compliance with ICWA and applicable related California law. If, after proper inquiry and notice, a tribe claims that Princess and Paris are Indian children, or if other information is presented to the juvenile court that suggests that Princess and Paris are Indian children, the juvenile court is ordered to conduct a new hearing in conformity with the provisions of ICWA relating to child custody proceedings involving Indian children, and Princess, Paris, the tribe, and father may petition the juvenile court to invalidate any orders that violate ICWA.

NOT TO BE PUBLISHED IN THE OFFICIAL REPORTS.

_____, J.
CHAVEZ

We concur:

_____, P. J.
LUI

_____, J.
HOFFSTADT